

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

YVONNE C. JONES)
)
v.) NO. 3-14-2328
) JUDGE CAMPBELL
OCWEB LOAN SERVICING, LLC,)
et al.)

ORDER

Pending before the Court are a Report and Recommendation of the Magistrate Judge (Docket No. 28), Plaintiff's Motion for Review (Docket No. 31), Plaintiff's Motion for Leave to File Reply (Docket No. 32), and Plaintiff's Motion to Amend Complaint (Docket No. 33).

Pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b)(3) and Local Rule 72.03(b)(3), the Court has reviewed *de novo* the Report and Recommendation, Plaintiff's Motions, and the file.

Plaintiff's Motion for Review is GRANTED, and the Court has reviewed the Report and Recommendation and Plaintiff's filings as set forth above. Plaintiff's Motion for Leave to File Reply (which requests that she be allowed to file a reply motion to amend) is moot, as the Plaintiff has already filed her Motion to Amend Complaint. Plaintiff's Motion to Amend Complaint is DENIED as futile, because the proposed Amended Complaint does not address the jurisdictional problems identified in the Report and Recommendation or change the result recommended therein.

Plaintiff's Complaints (Docket Nos. 1, 15 and 33-1) fail to allege a jurisdictional basis for this case to be in this federal Court. Plaintiff's original Complaint (Docket No. 1) does not address a jurisdictional basis. Plaintiff's Amended Complaint (Docket No. 15) and proposed Second Amended Complaint (Docket No. 33-1) both assert that jurisdiction is proper in Davidson County, Tennessee, "as all of the underlying transactions referred to herein occurred and continue to occur

in this State.” Plaintiff does not allege that jurisdiction is proper in federal court rather than state court.

As noted by the Magistrate Judge, jurisdiction in federal court is based upon either federal question or diversity of citizenship. 28 U.S.C. §§ 1331 and 1332. Plaintiff has pled neither. Plaintiff has failed to identify a federal question at issue in this matter, and she has failed to allege that the parties are citizens of different states as required to show diversity jurisdiction.

Accordingly, the Report and Recommendation of the Magistrate Judge (Docket No. 28) is adopted and approved, and this action is DISMISSED without prejudice. Any pending Motions are denied as moot, and the Clerk is directed to close the file. This Order shall constitute the final judgment in this case pursuant to Fed. R. Civ. P. 58.

IT IS SO ORDERED.

Todd Campbell
TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE